

REMARKS

Claims 1, 6, 10-15, 17, 20, 23-27, 32, 33, 35, 37, 38, 40, 42, 45-48, 50, 52, 56, 57, 59-62, 64, 67, 68, 71-74, 76, 78-80, 84, 86, 87, 94, 95, 97, 98 and 100-102 are pending in the above-identified application. All of the pending claims have been rejected. With this Amendment, claims 52, 62 and 84 are amended. Support for these amendments can be found throughout the Specification and the Claims as filed. See, for example, paragraph [0030], [0031], [0069], [0092], and [0093] of the specification and claims 73, 74, 97 and 98 as filed. More support can be found, for example, in the abstract, paragraphs [0014], [0016], [0024], [0026], [0028], [0029], [0031], [0032], [0035], [0057], [0062], [0065], [0066], [0067], [0069], [0071], [0072], [0073], [0076], [0078], [0080], [0081], [0082] and [0085] in the Specification of copending U.S. Patent Application Serial Number 10/720,777, which was filed on the same date as the current application. As U.S. Patent Application Serial Number 10/720,777 was incorporated by reference in its entirety into the instant specification, it is a part of the instant specification as filed as if the text was repeated. See M.P.E.P. §2163.07(b). Claim 17 is amended to add a period at the end of the claim. Therefore, no new matter was added by way of this amendment. All of the pending claims remain presented for examination in view of the amendments and arguments presented below.

As an initial issue, in item 2 of the “RESPONSE TO REMARKS” section in the instant final office action, the Examiner states that “Applicant argues that one of ordinary skill in the art at the time of the invention would not have found it obvious to combine the teachings of Daggett and Sandor. Applicants respectfully point out that Applicants did not present such argument in the previous Response to Non-Final Office Action which was filed on April 6, 2009. Instead, Applicants argued that at least the claim feature of assigning a unique identifier to the emission reduction unit or environmental data is missing from both Daggett and Sandor.

Rejection of Claims Under 35 U.S.C. §103

The claims are rejected under U.S.C. 35 §103(a) as allegedly being unpatentable over Daggett et al. (US 2002/0173980 A1, referred to as “Daggett” hereinafter) in view of Sandor et

al.(US 2005/0246190 A1, referred to as “Sandor” hereinafter) and further in view of Schomer (US 6,108,617, referred to as “Schomer” hereinafter). Applicants respectfully disagree.

Standard for Obviousness

The Patent and Trademark Office has the burden under section 103 to establish a *prima facie* case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-87 (Fed. Cir. 1984). In the recent decision by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007), the Supreme Court reaffirmed the framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). See M.P.E.P §2141 and §2143. To establish a *prima facie* case of obviousness, three basic criteria must be met: first, the prior art reference (or references when combined) must teach or suggest each element claimed; second, one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately; finally, one of ordinary skill in the art would have recognized that the results of the combination were predictable. See M.P.E.P. §2143.

An essential characteristic of any *prima facie* case of obviousness is that the references, when combined must teach or suggest each element claimed. The present rejection fails to make a *prima facie* case of obviousness because the references in combination fail to supply at least one element common to all of the claims in consideration.

The Examiner states that the data identifying “creation of a contract” is non-functional descriptive data. Applicants respectfully disagree for at least the following reasons. First, the claimed invention is drawn to a method of processing environmental emissions. In some embodiments of the invention, the processing of environmental emissions is through partnership between more than one entity, or different units of the same entity, for efficient emission processing. See, for example, claim 54. “Creation of a contract” is part of the invention to establish this partnership and to standardize the collection of associated production practice data in order to facilitate effective emission process. Accordingly, Applicants respectfully submit that the data identifying “creation of a contract” is not non-functional descriptive material, but an important step of the current method claims. The contract governs the production of production

practice data, which are manipulated by the claimed methods to produce emission reduction units. Thus, this method step is analogous to a preamble, and should similarly be given patentable weight because the production practice data language recited therein provides antecedent basis for later claim limitations. *See* M.P.E.P. § 2111.02. Such language has also been given patentable weight in other instances. For example, during the prosecution of U.S. Patent No. 7,200,572, method steps drawn to “generating a contract” and pricing conditions of that contract were given patentable weight by the Examiner. *See* “REMARKS” in response to rejection to claims 1, 21, 28 and 29 under 35 U.S.C. §103(a) which was filed on July 7, 2006 and the subsequent office action issued on July 24, 2006 in which all the pending claims were allowed. Secondly, using the claimed methods, environmental emission can be converted to a standardized emission reduction unit, which can be considered tradable as either a commodity, a financial instrument or a security. A search for the terms “contract” and “commodity” in the Claims of patents revealed 47 issued patents; a search for the terms “contract” and “financial instrument” in the claims of patents revealed 23 issued patents; a search for the terms “contract” and “security” in the claims of patents revealed 96 issued patents; and a total of 149 patents with the terms “contract” and “commodity” and/or “financial instrument” and/or “security” in the claims have been issued, between year 1976 and the present. Accordingly, Applicants respectfully request that the data identifying “creation of contract” be given patentable weight.

Daggett teaches a system for gathering and organizing land-related information by associating that information with Geographic Positioning System (GPS) coordinates. The system maps an agricultural field and divides the maps of the field into management zones. The land within each management zone is homogenous with respect to risk factors related to crop failure. A Geographic Information System (GIS) record is created with respect to each management zone and fields of relevant agronomic information for that management zone are associated with the record. Daggett further teaches that the GIS records associated with the system are useful in verifying carbon credits, and the mechanisms used to gather the information for the GIS records is useful for accumulating carbon credits. *See* the abstract. However, the deficiency of Daggett compared to claim 1 and amended claims 52, 62 and 84 is at least that Daggett does not teach assigning the environmental data a unique identifier, as acknowledged by the Examiner. *See* lines 3-5 of page 6 of the instant final office action. There are other

deficiencies in Daggett compared to the claimed invention. Applicants reserve the right to argue these and other deficiencies of Daggett in future prosecution if needed.

Sandor teaches methods for facilitating trading of emission by collecting activity data based on energy consumption and converting the activity data to one of GHG emission or GHG emission conversion equivalents. However, Sandor does not teach, at least, assigning the environmental data a unique identifier, as acknowledged by the Examiner. See lines 3-5 of page 6 of the instant final office action.

Accordingly, the disclosure corresponding to the claimed “unique identifier” must be present, if at all in the cited Schomer reference.

Schomer teaches a method of establishing a correspondence between the use of a chemical and the process wherein that chemical is used by assigning the process a process identification number (PIN). In the process disclosed in Schomer, after a chemical has been assigned to an inventory, the use of that chemical is tracked, and the chemical is correlated to the process in which it is used. A report is then generated reporting the use of the chemical in the process.

As noted above, neither Daggett nor Sandor discloses the “unique identifier” recited in claim 1 and amended claims 52, 62 and 84. The Examiner maintains that Schomer discloses the claimed “unique identifier.” However, when Schomer is reviewed in greater detail, it is apparent that Schomer fails to disclose all of the claimed components of the unique identifier, many of which have no applicability to the relatively simple chemical tracking system disclosed in Schomer.

As noted, Schomer discloses a system for the tracking of chemicals from acquisition by a user of a chemical to final use of that chemical in a particular process. Schomer does not disclose any tracking of the production of the chemical. Thus, the PIN disclosed in Schomer relates to information about the use of a chemical, not its production or manufacture. In contrast, the unique identifier taught in the instant application is adapted to correlate production practice data relating to the sequestration of environmental emission over a given period of time with converted emission reduction units or environmental data, and makes it possible to track the

status of the emission reduction units or environmental data. More specifically, the unique identifier taught in the instant application and the PIN disclosed in Schomer are different in at least the following aspects.

First, the unique identifier in the instant application comprises a “vintage portion characterizing the pre-selected time period for the production practice.” The vintage portion reveals when the production practice was undertaken. This information is vital for processing environmental emissions and for a buyer. In contrast, Schomer does not disclose any tracking of the production of the chemicals, much less production over a “pre-selected time period.” Nor is there any suggestion in Schomer that such tracking should be carried out. Schomer is concerned with use of the chemicals, not their production.

Second, the unique identifier as claimed comprises “a characterizing portion characterizing at least one of (i) a geographical reference for the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol.” The geographical reference includes a location representative of the production practice. The information is important for a buyer of environmental emission reductions, because a buyer may favor environmental emission reductions from a particular region or producer for public relations purposes, and may be unable to use environmental emission reductions from other geographic locations for reasons of regulation or policy. The “protocol” can include at least one of guidance on measurement methodologies, indirect measurement criteria, modeling, baseline definitions and measurements, IPCC Global Warming Potential (GWP) conversion factors to enable the equivalent comparison of GHG carbon dioxide equivalents (CO_{2e}), and individual greenhouse gas performance factors. The protocol is adapted to determine at least one of environmental emissions mitigation and environmental emissions removal associated with the production practice of the producer compared to a baseline practice. The protocol type can directly or indirectly identify the production practice responsible for creating the environmental emission reduction; a specific protocol version may, for example, treat data variance or data collection/monitoring (or some other attribute specified by the protocol) in a “preferable” way (viewed from the perspective of a buyer); and an approval

authority can enable a buyer to choose environmental emission reductions that have been approved by a specific entity, such as, for example, a government or the World Bank. Such information can enable a buyer to selectively purchase specific environmental emission reductions, to complement a business typology, a compliance philosophy, to favor a given approval authority, or so forth. None of this is disclosed by Schomer, who is not concerned with the geographic location of the producer or manufacturer of a chemical. Neither does Schomer disclose the claimed “protocol,” because such detailed information relating to the conversion of one set of data to standardized units that may be sold on a market is immaterial to Schomer’s simple chemical tracking system. Unsurprisingly, therefore, the PIN disclosed in Schomer comprises neither the claimed “geographical reference for the producer” nor information regarding the claimed “protocol.”

Accordingly, Schomer fails to disclose elements corresponding to all of the claim limitations subsumed in the claimed “unique identifier.” The PIN of Schomer thus does not correspond to the “unique identifier.” Furthermore, the Examiner has conceded that neither Daggett nor Sandor discloses the “unique identifier.” Accordingly, this combination of references fails to disclose all of the claim limitations, and there is thus no *prima facie* case of obviousness of the pending claims.

Accordingly, Applicants respectfully submit that claim 1 and amended claims 52, 62 and 84 are not obvious over Daggett in view of Sandor and further in view of Schomer, because at least the claim feature of assigning a unique identifier to the emission reduction unit or environmental data which is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit is missing from Daggett, Sandor and Schomer, alone or in combination. All the other dependent claims include all the limitations of these independent claims, and therefore, are not obvious over Daggett in view of Sandor and further in view of Schomer.

In view of the foregoing, Applicants respectfully submit that claims 1, 6, 10-15, 17, 20, 23-27, 32, 33, 35, 37, 38, 40, 42, 45-48, 50, 52, 56, 57, 59-62, 64, 67, 68, 71-74, 76, 78-80, 84, 86, 87, 94, 95, 97, 98 and 100-102 are patentable over the cited references, alone or in

combination. Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

Applicants submit that the present Application is in condition for allowance and respectfully request the same. If any issues remain, the Examiner is cordially invited to contact Applicants' representative at the number provided below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 04-0258.

Respectfully submitted,

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